

## **FRIDAY UPDATE—JANUARY 21, 2005**

*The weekly update of the activities of the Indiana General Assembly  
A publication of the Indiana Judicial Center*

We have reached the end of the third week of the 2005 legislative session, the highlight of which was the State of the Judiciary. This week's update includes an overview of the State of the Judiciary and reports on bills discussed this week.

If you are interested in reading the text of any bill introduced this session, you may find bill information on Access Indiana at [http://www.in.gov/serv/lisa\\_billinfo](http://www.in.gov/serv/lisa_billinfo).

### **STATE OF THE JUDICIARY:**

On Wednesday morning the Chief Justice delivered the State of the Judiciary address to the General Assembly. Chief Justice Shepard described the judicial branch's efforts to make the judiciary better than "good enough", highlighting the creation of a 21st century case management system and the various on-line resources available to the public. The Chief Justice then discussed areas in the judicial system that work well, but still need improvement, such as the selection of judges in Marion County and managing the distribution of caseloads. In addition, the Chief Justice urged lawmakers to pass House Bill 1777, which would provide for a cost of living adjustment for judges and prosecutors. Referring to the loss of purchasing power since the last pay bill, he stated, "For the families of the judges and prosecutors and for the people who rely on them for justice, I ask you to tend to this need." The Chief Justice also informed lawmakers of continued efforts to provide mediation in family law cases and the Family Court projects. Also, Chief Justice Shepard informed lawmakers of the judiciary's efforts to improve jury service by providing a quality orientation and better tools to aid in the decision-making process. The Chief Justice emphasized the need to make juries more representative by eliminating statutory exemptions and making it clear that courts can use a mix of lists to achieve the broadest participation. Noting that some people do not register to vote because they may be called for jury service, he stated, "Breaking the linkage will be better for the system of trial by jury, but it will also be good for democracy." Chief Justice Shepard also recognized Indiana's pro bono services program and Indiana's efforts in providing counsel at public expense as leading examples looked to by other states. The full text of the State of the Judiciary can be found on-line at <http://www.in.gov/judiciary/supreme/stjud/2005.html>.

### **CIVIL LAW:**

The Senate Judiciary Committee heard SB 77 concerning mechanic's liens on towed vehicles, which permits an unpaid provider of towing services to obtain a mechanic's lien on a towed vehicle and sell the vehicle to recoup the costs of towing. The committee voted do pass 10-0.

The Senate Judiciary Committee also heard SB 102 concerning foreign judgments, which

1. protects Indiana debtors subject to out-of-state judgments by providing 21 days in which the debtor can file objections and defenses to the execution of the foreign judgment, and
2. gives out-of-state judgment creditors the same rights as in-state creditors, for example, an injunction to stop a debtor from hiding or disbursing his assets. A creditor's rights attorney testified that this bill does not apply to domestic relations cases, such as custody disputes; it applies to non-child support money judgments only. The committee voted do pass 9-0.

The Senate Judiciary Committee heard SB 211 concerning legal actions involving state liens. This bill allows the State to elect not to respond to legal actions involving state liens on real property. It also provides that if the State does not respond, a default judgment is not entered and while the State's lien right as to the property is extinguished, the State's recourse against the debtor is unaffected. The committee heard testimony from the State Chief of Collections, who emphasized that the cost of answering complaints involving State liens is frequently higher than the amount the State could collect on the lien. Sen. Long and Sen. Steele of the Committee pointed out that even if the bill passes, the Collections staff will still have to review all claims to determine whether it is worth it for the State to answer. Some members said they believed the bill to be unnecessary. The committee adjourned before voting, so that the members could attend the State of the Judiciary.

#### CRIMINAL LAW:

The Senate Corrections, Civil and Criminal Matters Committee heard SB 230, which adds registered neighborhood associations to the list of entities that must periodically receive the sex and violent offender directory published by the Criminal Justice Institute. This bill passed the Senate in the 2004 session of the General Assembly. The committee amended the bill to require neighborhood associations to provide CJI with the name and address of a contact person, and passed the bill unanimously.

The Senate Corrections, Civil and Criminal Matters Committee heard SB 164 concerning sex offender registration, which requires persons convicted of possession of child pornography and who have prior convictions for possession of child pornography to register as sex offenders. The bill passed unanimously.

Sen. Bray, filling in for an absent Sen. Wyss, presented a proposed amendment of SB 47 to the Senate Corrections, Civil and Criminal Matters Committee. The bill as initially filed would have created a D felony "counterfeiting" offense. Sen. Bray's amendment incorporates the "counterfeiting" language and penalties into the existing forgery offense definition. The amendment also provides for civil forfeiture of the equipment used to produce the counterfeit or forgery. The committee adopted the amendment by consent, and passed the bill by unanimous vote.

### ELECTIONS & VOTING:

The Senate Elections and Civic Affairs Committee heard SB 179 concerning vacancies caused by death, presented by Sen. Dillon, which provides a procedure to give notice of an officeholders death in order to begin the process of filling the vacancy and makes conforming amendments to the process for filling the vacancy. The committee received supporting testimony then passed the bill 9-0.

### JUDICIAL ADMINISTRATION:

The Senate Judiciary Committee heard SB 212 concerning tax court and senior judges, which allows a senior judge to be appointed to the tax court. After compelling testimony from Judge Fisher and others, the committee voted unanimously to pass the bill.

### SALARIES & BENEFITS:

The Magistrates pension bill, HB 1347, was heard by the House Employment and Labor Committee. Judge Kellams and Magistrate "Mick" Jensen from Marion County testified in favor of the bill on behalf of the other judicial officers in the audience. The bill passed 11-0.

The Senate Judiciary Committee will hear SB 363 on judicial salaries on Wednesday, January 26 at 9:00 a.m. in room 233.

The following bills relating to salaries and pensions have been filed, but not yet scheduled for a hearing: SB 88 on judges' retirement benefits, HB 1162 on judges' pensions, and HB 1777 on judicial compensation.

### CORRECTION:

In the January 21st Friday Update, we listed bills relating to salaries and benefits that had been filed, but not yet scheduled for a hearing. One of the bill numbers provided was incorrect. Below is this corrected list. We apologize for any inconvenience. Thank you.

### SALARIES & BENEFITS:

The following bills relating to salaries and pensions have been filed, but not yet scheduled for a hearing: SB 88 on judges' retirement benefits, HB 1682 on judges' pensions, and HB 1777 on judicial compensation.